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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,346	12/20/2001	John Emmanuel M.D. Markis	B-38	8346

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CHARLES G. CALL
68 HORSE POND ROAD
WEST YARMOUTH, MA 02673-2516

EXAMINER

GLASS, RUSSELL S

ART UNIT PAPER NUMBER

3626

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/034,346	MARKIS ET AL.	
	Examiner	Art Unit	
	Russell S. Glass	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Page 8, lines 22-24, referring to FIG. 1, patient identification information stored at 121, personnel information at 123, and security data at 125; Page 9, lines 19, 23-27, referring to FIG. 2, orders at 205; Page 10, line 2, referring to FIG. 2, patient I.D. button at 211; Page 10, line 19, referring to FIG. 2, respiration rate; page 11, line 28, referring to FIG. 2, database 117; and page 12, lines 16-17, referring to FIG. 5, trend graph at 414.
2. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities: Page 9, line 12 refers to personnel database instead of personnel data. Inconsistent terminology is unacceptable. Appropriate correction is required.

Claim Objections

4. Claim 8 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 7. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

5. Claim 12 is objected to because of the following informalities: Claim 12 recites the limitation "bedside computer patient" in line 3. Examiner believes that applicant's use of "patient" is erroneous. Appropriate correction is required.

6. Claims 15 and 16 are objected to because of the following informalities: These claim numbers are incorrectly used twice. The second set of numbers 15, 16, and claim 17 will heretofore be referred to as claims 17, 18, and 19, respectively.

7. Claims 5, 6, 9, 11, 16, 17, and 19 are objected to because of the following informalities: A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. See MPEP § 608.01(n). Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent claim 1 recites the limitation "operator" in line 4. There is insufficient antecedent basis for this limitation in the claim. Dependant claims 2-11 are, therefore, also considered to be indefinite. Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 4, 7, 8, 12, 15, 18, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Gombrich et al. (U.S. 4,835,472).

(a) As per claim 1, Gombrich discloses the method of gathering, processing and displaying data describing a patient which comprises, in combination, the steps of:

- (1) Employing a computer located at the bedside of said patient for accepting identification values which identify said patient and said operator, (Gombrich; Abstract; col. 2, 3-54; col. 16, lines 3-17);
- (2) Employing said computer located at the bedside of said patient for accepting vital sign values from an operator which indicate the patient's current temperature, blood pressure, and pulse rate, (Gombrich, col. 12, lines 23-27);

- (3) Using a communications facility to transmit said vital sign values and said identification values to a remote computer from said computer located at the bedside of said patient to a remote computer, (Gombrich, col. 13, lines 44-55, 60-67);
 - (4) Storing said vital sign values and said identification values in a database, (Gombrich, col. 13, lines 56-59);
 - (5) Employing said computer located at the bedside of said patient for transmitting a request for specified data previously stored in said database and for displaying data returned from said database in response to said request, (Gombrich, col. 3, lines 7-18).
- (b) As per claim 4, Gombrich discloses the method set forth in claim 1 wherein computer located at said bedside includes a connected barcode scanner for accepting said identification values from a printed medium, (Gombrich, Abstract).
- (c) As per claim 7, Gombrich discloses the method set forth in claim 1 wherein said computer located at said bedside comprises a handheld computer and said communications facility includes a radio communications link which transmits data between said handheld computer and said remote computer, (Gombrich, FIGS. 10 and 11; col. 4, lines 1-13, 33-41).
- (d) As per Claim 8, Examiner believes that the reference to claim 1 is in error, therefore, claim 8 is deemed to depend on claim 2 for the purpose of examination.
- Gombrich discloses the method set forth in claim 1 wherein said computer located at said bedside comprises a handheld computer and said communications

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facility includes a radio communications link which transmits data between said handheld computer and said remote computer, (Gombrich, FIGS. 10 and 11; col. 4, lines 1-13, 33-41).

(e) As per claim 12, Gombrich discloses, in combination with a database server computer for storing patient data, a bedside computer for gathering, processing and displaying data describing a patient at the bedside of said patient and remote from said database server, said bedside computer comprising:

(1) Means for accepting identification values that identify said patient and an operator, (Gombrich; Abstract; col. 2, 3-54; col. 16, lines 3-17);

(2) Means for accepting vital sign values from said operator which indicate the patient's current temperature, blood pressure, and pulse rate, (Gombrich, col. 12, lines 23-27);

(3) A communications interface for transmitting said vital sign values and said identification values to said database computer for storage and for transmitting a request for specified data previously stored by said database computer, (Gombrich, col. 13, lines 44-55, 60-67); and

(4) Means for displaying data returned from said database computer in response to said request, (Gombrich, col. 3, lines 7-18).

(f) As per claim 15, Gombrich discloses the bedside computer set forth in claim 12 wherein said means for accepting identification values that identify said patient and an operator include a connected barcode scanner for accepting said identification values from a printed medium (Gombrich; Abstract; col. 2, 3-54; col. 16, lines 3-17).

(g) As per claim 18, Gombrich discloses the method set forth in claim 12 wherein said bedside computer comprises a handheld computer and said communications facility includes a radio communications link which transmits data between said handheld computer and said remote computer, (Gombrich, FIGS. 10 and 11; col. 4, lines 1-13, 33-41).

(h) As per claim 19, Gombrich discloses the method set forth in claim 15 wherein said bedside computer comprises a handheld computer and said communications facility includes a radio communications link which transmits data between said handheld computer and said remote computer, (Gombrich, FIGS. 10 and 11; col. 4, lines 1-13, 33-41).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 2, 3, 5, 6, 9-11, 13, 14, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gombrich in view of Schmitt et al., (U.S. 5,865,745).

(a) As per claim 2, Gombrich discloses the method of gathering, processing and displaying data describing a patient in claim 1.

Gombrich fails to disclose the method set forth in claim 1 wherein said computer located at the bedside of said patient includes a touchscreen, however, touchscreen technology was well-known in the art, at the time of the invention, as evidenced by

Schmitt. Schmitt discloses a patient care system wherein said computer located at the bedside of said patient includes a touchscreen, (Schmitt, Abstract).

The motivation to combine Schmitt with Gombrich would be obvious to one of ordinary skill in the art because touchscreens are well known in the art as a suitable user interface for the intended purpose of accepting and displaying computer data, (Schmitt, claim 5).

(b) As per claim 3, Gombrich discloses the method of gathering, processing and displaying data describing a patient in claim 1.

Gombrich fails to disclose the method set forth in claim 1 wherein said computer located at the bedside of said patient includes a touchscreen, however, touchscreen technology was well-known in the art, at the time of the invention, as evidenced by Schmitt. Schmitt discloses a patient care system wherein said computer located at the bedside of said patient includes a touchscreen, (Schmitt, Abstract).

Gombrich also fails to disclose a method for displaying prompting messages which request specific ones of said vital sign values and for accepting said vital sign values from said operator. However, Gombrich discloses the use of displaying prompting messages to a nurse to indicate that certain actions in a health care regimen need to be taken (Gombrich, col. 17, lines 1-10, 37-40, 57-59). Gombrich also discloses accepting vital sign values from said operator via a keypad. (Gombrich, col. 27, lines 64-66).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference. Furthermore, It

would be obvious to one of ordinary skill in the art to display prompting messages which request specific ones of said vital sign values and for accepting said vital sign values from said operator. The motivation to add this feature to the collective method would be to facilitate immediate data capture and positive identification of all therapy provided to the patient, (Gombrich, col. 6, lines 16-18).

(c) As per claim 5, Gombrich discloses the method set forth in claim 2 wherein computer located at said bedside includes a connected barcode scanner for accepting said identification values from a printed medium (Gombrich, Abstract).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference.

(d) As per claim 6, Gombrich discloses the method set forth in claim 3 wherein computer located at said bedside includes a connected barcode scanner for accepting said identification values from a printed medium (Gombrich, Abstract).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference.

(e) As per claim 9, Gombrich discloses the method set forth in claim 3 wherein said computer located at said bedside comprises a handheld computer and said communications facility includes a radio communications link which transmits data between said handheld computer and said remote computer. (Gombrich, FIGS. 10 and 11; col. 4, lines 1-13, 33-41).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference.

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(f) As per claim 10, Gombrich discloses the method set forth in claim 9 wherein said handheld computer located at said bedside employs a barcode scanner for accepting said identification values from a printed medium. (Gombrich, col. 2, 16-19; col. 4, 1-9).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference.

(g) As per claim 11, Schmitt discloses the method set forth in claim 3 wherein said touch screen display a plurality of touch controls each of which increments or decrements the current value (Schmitt, FIG. 26). However, Schmitt fails to disclose incrementing or decrementing the current value of said specific ones of said vital sign values.

Gombrich discloses incrementing or decrementing the current value of said specific ones of said vital sign values. (Gombrich, FIG. 35 col. 16, 37-47, col. 29, line 50 through col. 30, line 32; teaching that vital sign values can be changed using a cursor and keypad).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference.

(h) As per claim 13, Schmitt discloses the bedside computer set forth in claim 12 wherein said means for accepting vital sign values includes a touchscreen for accepting input commands from said operator, (Schmitt, Abstract).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference.

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(i) As per claim 14, Gombrich discloses a means for accepting vital sign values, (Gombrich, col. 12, lines 23-27). However, Gombrich fails to disclose the use of a touchscreen.

Touchscreen technology was well-known in the art, at the time of the invention, as evidenced by Schmitt. Schmitt discloses a patient care system wherein said computer located at the bedside of said patient includes a touchscreen, (Schmitt, Abstract).

Gombrich also discloses a means for displaying prompting messages, (Gombrich, col. 17, lines 1-10, 37-40, 57-59). However, Gombrich does not disclose a means for displaying prompting messages which request specific ones of said vital sign values and for accepting said vital sign values from said operator.

Gombrich discloses a means for displaying prompting messages to a nurse to indicate that certain actions in a health care regimen need to be taken (Gombrich, col. 17, lines 1-10, 37-40, 57-59); and

Gombrich also discloses accepting vital sign values from said operator via a keypad. (Gombrich, col. 27, lines 64-66).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference. The motivation for combining the teachings of Gombrich is as given above in the rejection of claim 3, and incorporated herein by reference.

(j) As per claim 16, Gombrich discloses the bedside computer set forth in claim 13 wherein said means for accepting identification values that identify said patient and an

operator include a connected barcode scanner for accepting said identification values from a printed medium (Gombrich; Abstract; col. 2, 3-54; col. 16, lines 3-17).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference.

(k) As per claim 17, Gombrich discloses the bedside computer set forth in claim 14 wherein said means for accepting identification values that identify said patient and an operator include a connected barcode scanner for accepting said identification values from a printed medium (Gombrich; Abstract; col. 2, 3-54; col. 16, lines 3-17).

The motivation for combining the teachings of Gombrich and Schmitt is as given above in the rejection of claim 2, and incorporated herein by reference.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows: Walsh, U.S. 6,910, 626, issued on June 28, 2005, teaches a Method of Patient Identifier Identification; Ballantyne et al., U.S. 5,867,821, issued on February 2, 1999 teaches a Method and Apparatus for Electronically Accessing and Distributing Personal Health Care Information And Services in Hospitals and Homes; and Gombrich, U.S. 4,916,441, issued on April 10, 1990, teaches a Portable Handheld Terminal.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell S. Glass whose telephone number is 571-272-3132. The examiner can normally be reached on M-F 8-5.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RSG
08/18/05


JOSEPH THOMAS
SUPERVISORY PATENT EXAMINER